IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2007

C O R A M

THE HONOURABLE Mr.JUSTICE P.JYOTHIMANI

W.P.No.34850 of 2007

N.Chellaperumal .. Petitioner

-Vs.-

1. The District Collector,
   Chennai District,
   Singaravelar Maligai,
   Chennai - 600 001.

2. Tahsildar,
   Egmore Nungambakkam Taluk,
   Chennai - 600 031. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records and quash the proceedings in No.E4/32978/2007 dated 08.10.2007 on the file of the 2nd respondent and to direct the 2nd respondent to issue the Legal Heir Certificate in favour of the petitioner as per his representation letter dated 20.09.2007.

For Petitioner : Mr.M.Krishnamurthy.

For Respondents : Mr.P.S.Raman,AAG
assisted by Mr.K.Balu, AGP

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O R D E R

This writ petition is filed challenging the order of the second respondent in rejecting the claim of the petitioner to issue Legal Heirship Certificate to him based on the adoption deed dated 23.09.2002.

2. According to the petitioner he was an adopted son of Tmt.Kannammal, who executed an adoption deed dated 23.09.2002 and registered as document No.583 of 2002 on the file of the Registrar Central Chennai and she died without any issues on 11.02.2007 and her husband predeceased her on 15.05.1989.

3. The impugned order of the second respondent Tahsildar states that on enquiry it is found that the petitioner is the adopted son of Tmt.N.Kannammal and hence rejected the claim of the petitioner for issuance of legal heir certificate and it is this

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order which is challenged on the ground that when the Tahsildar has enquired and has satisfied himself based on the document that adoption is valid, it is his duty to issue the legal heirship certificate.

4. On the other hand, Mr.P.S.Raman, learned Additional Advocate General appearing for the respondents would submit that by considering the present age of the petitioner and also the date of adoption deed i.e. 23.09.2002, the petitioner should have been adopted while he was above 35 years. As per the Hindu Adoption and Maintenance Act, 1956, such an adoption is invalid, since adoption of children must be below 15 years as per the Act.

5. Heard Mr.M.Krishnamurthy, learned counsel appearing for the petitioner and Mr.P.S.Raman, learned Additional Advocate General appearing for the respondents.

6. On the basis of the records, there is a clear apprehension that at the time when the petitioner is stated to have been adopted he should have been around 30 years of age and this requires further investigation. In view of the same, the impugned order of the second respondent dated 08.10.2007 is set aside and the matter is remitted back to the second respondent to conduct a fresh enquiry in respect of the said adoption and also the validity or otherwise of the adoption as per law and pass necessary orders within 12 weeks from the date of receipt of a copy of this order. Consequently, the connected M.P. is closed. No costs.

Kk

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The District Collector,
   Chennai District,
   Singaravelar Maligai,
   Chennai - 600 001.

2. Tahsildar,
   Egmore Nungambakkam Taluk,
   Chennai - 600 031.

• 1 cc to Mr. M. Krishnamoorthy, Advocate SR No. 67931
• + 1 cc to the Government Pleader, SR No.67373

SP(CO)
SR(28.11.2007

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